

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

EDWARD KENT HAUERSPERGER           §  
(aka Edward LaFontaine)  
v.   §   CIVIL ACTION NO. 6:05cv494  
BETTER BUSINESS BUREAU, ET AL.   §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Edward Hauersperger, proceeding *pro se*, filed this lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Hauersperger says in his complaint that Judge Bascom Bentley, the Sheriff of Anderson County, the “perveyors” [sic] of Anderson County, and the Better Business Bureau have denied him constitutional rights by not assisting him with criminal complaints that he has made against the persons holding him in confinement. He says that he has written to all of these individuals about how he is being held unlawfully, but they all refuse to help. For relief, Hauersperger asks for his release from confinement and that he be paid for the time he spent in prison.

On January 31, 2006, the Magistrate Judge issued a Report recommending that Hauersperger's lawsuit be dismissed. The Magistrate Judge observed that Hauersperger had a long history of filing frivolous lawsuits and had accumulated three strikes under 28 U.S.C. §1915(g). Under this statute, Hauersperger must pay the full fee to file his complaint or show that he is in imminent danger of serious bodily injury. Because he did neither of these things, the Magistrate

Judge recommended that Hayersperger's motion to proceed *in forma pauperis* be denied and that the lawsuit be dismissed.

Hayersperger received a copy of the Magistrate Judge's Report on February 7, 2006, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).


The Court has examined the Plaintiff's pleadings, the Report of the Magistrate Judge, and all documents and records in the case. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for leave to proceed *in forma pauperis* is hereby DENIED and that the above-styled civil rights lawsuit is hereby DISMISSED with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full \$250.00 filing fee. It is further

ORDERED that any and all motions which may be pending in this lawsuit are hereby DENIED.

**SIGNED this 2nd day of March, 2006.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE